IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO.5353 OF 2005
IN
FIRST APPEAL NO.2164 OF 2005

The Government of Maharashtra & ors. Applicants
(ori.opponents)

vs.

Mayabai Gowari (deceased) through her
Power of Attorney holder Shri Ambaji
Gopal Mali Respondents
(ori.Claimants)

Mrs.G.P.Mulekar, A.G.P. for the applicants-appellants.

Mr.S.G.Surana for the respondents-claimants.

CORAM : R. M. LODHA &
A.S.BAGGA, JJ.

DATED : 30th June, 2006

P.C.

In our order dated 16th June, 2006, we had already observed that it was not proper on the part of the Reference Court in permitting the withdrawal of the amount when the matter is subjudice before this Court and there is no order of this Court permitting withdrawal of the amount that was to be deposited by the appellants. However, the fact of the matter is that claimants have withdrawn 50% of the amount on furnishing indemnity bond and remaining 50% on furnishing Bank Guarantee.

2. An affidavit has been filed by the Constituted

Attorney of the claimants indicating that as far as immovable property is concerned, the claimants have one house only and they carry on small business of selling vegetable/milk.

3. Taking overall facts and circumstances of the case into consideration, we direct the claimants (respondents) to furnish further Bank Guarantee to the extent of 50% of the amount that was withdrawn by furnishing indemnity bond. The Bank Guarantee shall be furnished by the claimants (respondents) within four weeks from today to the satisfaction of the Reference Court.

4. Civil Application stands disposed of.

(R.M. LODHA,J.)

(A.S. BAGGA,J.)